



STATE OF ARKANSAS
**Department of Finance
and Administration**

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September 24, 2007

Kelly S. Hampton
CO Director
The Sugarloaf Center
2494 Wilburn Road
Heber Springs, AR 72543

RE: Request for Waiver/Advisory Opinion #483-07-09

Dear Ms. Hampton:

This letter is in response to your request for a waiver of the restrictions found in ACA Section 19-11-701 et seq., the Ethics in Public Contracting Law. We are responding pursuant to ACA Section 19-11-715 (c). Your request for a waiver is based on the following facts:

- 1) You and your partner, Becky Milligan, have opened a transitional living center, The Sugarloaf Center, in the Heber Springs area.
- 2) Both of you worked at the Department of Community Corrections Center (DCC) in Heber Springs, and left that employment in March and May of 2007.
- 3) You worked in the position of Administrative Assistant and Becky was a Probation/Parole Office, coming into personal contact with inmates and parolees who might eventually be sent to the Sugarloaf Center.
- 4) The Sugarloaf Center was issued a Transitional Housing Facility License through DCC in August of 2007.
- 5) The Sugarloaf Center responded to a request for qualifications issued by the Office of State Procurement in September 2007 and you were informed by that office that contracting with DCC to perform transitional living services could present an ethical conflict and that you should request an advisory opinion on this issue.
- 6) You are requesting a waiver to be allowed to contract with DCC to provide transitional living services through The Sugarloaf Center.

Your request for a waiver relies on the fact that there are no transitional living service providers in your area of the state and that “the closest transitional center is in Searcy, AR and they are always at capacity.” However, ACA Section 19-11-715 (c) provides for a waiver only from the restrictions of ACA 19-11-705 **Employee conflict of interest**, rather than ACA Section 19-11-709 **Restrictions on employment of present and former employees**.

ACA Section 19-11-709(d), **Selling to State After Termination of Employment is Prohibited** provides for a one year prohibition for former state employees “to engage in selling or attempting to sell ...services, including technical or professional consultant services, to the state for one (1) year following the date employment ceased”. The contract between the Sugarloaf Center and the state is a professional consultant services contract.

Accordingly, a waiver of the prohibition contained in ACA Section 19-11-709(d) is not available under the statutes, and as long as you and Ms. Milligan have a financial interest, The Sugarloaf Center may not contract with DCC or any other state agency until June of 2008 (one year from Ms. Milligan’s separation from DCC in May of 2007).

This advisory opinion is issued in accordance with ACA Section 19-11-715 (b) and (c) and compliance with the above course of conduct is deemed to constitute compliance with the ethical standards of Act 483 of 1979, the Ethics in Public Contracting Law and Governor’s Executive Order #98-04.

Sincerely,

Richard Weiss
Director

cc: Cindy Ward, DCC
Joe Giddis